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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/762,106

01/21/2004

Knud Reuter

CH-7961/LeA 35,552

3885

23416

7590

07/28/2008

CONNOLLY BOVE LODGE & HUTZ, LLP

P O BOX 2207

WILMINGTON, DE 19899

EXAMINER

WU, SHEAN CHIU

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

07/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/762,106	Applicant(s) REUTER ET AL.	
	Examiner Shean C. Wu	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49 and 50 is/are allowed.
- 6) ☒ Claim(s) 46-48, 51-61 and 64-68 is/are rejected.
- 7) ☒ Claim(s) 62 and 63 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 46-48, 51-58, 60 and 64-68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 46 and 54, the proviso is vague because the notation A is limited to C₁ or C₃₋₅ alkylene radical.

Also, the formula (I-a) in claim 48 is excluded from the claimed compound.

Claims 47, 51-53 and 65 are rejected because they are dependent claims.

In claim 52, the clause "mixtures of two or more compounds" does not have an antecedent basis because the claim 46 is not a mixture.

Claims 55-58 and 65 are rejected because they are dependent claims.

Claims 60 and 64 are depended on the canceled claim 44.

Claim 66 is vague because the proviso of polythiophene having p=1.

Also, claim 67 is vague because the proviso is not part of the B', which requires the r=1 and s=0.

Claim 68, the proviso of the claim is not part of the formula (I).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill

in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 59 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnamoorthy et al. (Synthetic Metals 124 (2001), pages 471-475).

The reference discloses a polymer based on a rigid cyanobiphenyl substituted 3, 4 ethylenedioxythiophene used in industrial applications such as electrochromic materials and light emitting diodes (see abstract and section 1). The synthesis of poly 3, 4-ethylenedioxythiophene is disclosed in section 3.1. The product "P2" obtained from electropolymerization of monomer of formula 2 on page 472.

The reference differs from the claims in that the claims exclude the reference compound having a hexylene group. The present formula IV has a space group (Sp in B') containing 1-20 alkylene. However, it is known that the length of space group (CH₂)₆ can be adjusted; therefore it would have been obvious to those skilled in the art to modify the starting material by adjusting the length of alkyl of cyanobiphenyl derivatives for the same electrochemical applications to arrive at the claimed invention.

Allowable Subject Matter

4. Claims 49 and 50 are allowed.
5. Claims 62 and 63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims in the previous Office action have been considered but are moot in view of the new grounds of rejection. See the sections 1, 3 and 5.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shean C. Wu whose telephone number is 571-272-1393. The examiner can normally be reached on 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kelly Cynthia can be reached on 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shean C Wu/
Primary Examiner, Art Unit 1795

Scw